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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/712,350 | 11/13/2003 | Steven Winter | FSP0036 | 1428 |

7590 12/09/2005

FSP LLC
Attn: Charles A. Mirho
P.O. Box 890
Vancouver, WA 98666

EXAMINER

CHIN SHUE, ALVIN C

| | |
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| ART UNIT | PAPER NUMBER |
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3634

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,350

Applicant(s)

WINTER, STEVEN

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 16-26 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support for the first shelf comprising a flange to support the second shelf, as set forth in claim 21.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 16 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Romano. Romano shows a first shelf 27, a first rail 28, a second shelf 24 and a sleeve 22.

Claims 16-18 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pierce.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wyse '568 in view of Romano. Wyse shows the claimed scaffold with the exception of the expandable platform assembly. Romano shows a scaffold with the claimed expandable platform assembly having a first and second shelf 27,24 with rails and sleeves. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rails 14 and platform/shelf 16 of Wyse to comprise an expandable platform assembly, as taught by Romano, to enable extension of his scaffold.

Claims 17,18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romano in view of Pierce. Romano shows the claimed scaffold with the exception of the lock and safety rail. Pierce shows a lock comprising a spring and pin lock and a safety rail 13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Romano to comprise a lock and safety rail, as taught by Pierce, for locking his shelves in a desired position and to enhance the safety of a user, respectively.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romano in view of MacDonald. Romano shows the claimed scaffold with the exception of the transition. MacDonald shows shelves B,C with a transition there between. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rails of Romano to comprise a transition, as taught by MacDonald, to enable a smooth transition.

Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyse and Romano, as applied to claim 19, and further in view of Obergfell. Obergfell shows a brake comprising a spring biased rod 32 and a handle 17. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wyse to comprise a rod locking means, as taught by Obergfell, for locking his casters.

Claims 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyse, Romano and Obergfell, as applied to claim 23 above, and further in view of Moller. Moller shows a locking rod comprising corners for passing through an aperture having corners preventing relative rotation therewith. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the locking rod, as taught by Obergfell, to comprise corners, as

taught by Moller, as a means to prevent relative rotation with an aperture having corners.

The indicated allowability of the subject matter as presented in claim 26 has been withdrawn, due to the examiner's mistake of reading into to claim that an aperture with sixteen points was positively recited when no aperture had or has been positively recited in the claims.

Applicant states that the citation to Wyse '568 is incomplete, the examiner fails to understand why, note form PTO 892 mailed 6/28/05.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634

ACS